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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION
HONORABLE CORMAC J. CARNEY, U.S. DISTRICT JUDGE

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	<u>CERTIFIED TRANSCRIPT</u>
)	
vs.)	
)	Case No.
ROBERT BOMAN,)	2:18-cr-00759-CJC-2
)	
Defendant.)	
)	

REPORTER'S TRANSCRIPT OF PROCEEDINGS
STATUS CONFERENCE
TUESDAY, FEBRUARY 21, 2023
2:50 P.M.
SANTA ANA, CALIFORNIA

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1 **SANTA ANA, CALIFORNIA; TUESDAY, FEBRUARY 21, 2023**

2 **2:50 P.M.**

3 - - -

02:50PM 5 THE COURTROOM DEPUTY: Calling Item Number 3,
6 CR-18-000759, United States of America vs. Robert Boman.

7 Counsel, please state your appearances.

8 MS. JHAI: Good afternoon, Your Honor. Assistant
9 United States Attorney Maria Jhai on behalf of the Government.

02:50PM 10 THE COURT: Hello, Ms. Jhai.

11 MR. SWARTH: Good afternoon, Your Honor. Peter
12 Swarth appearing on behalf of Robert Boman. He's present in
13 court, in custody.

14 THE COURT: Hello, Mr. Boman.

02:50PM 15 Hello, Mr. Swarth.

16 MR. SWARTH: Good afternoon, Your Honor.

17 THE COURT: Mr. Boman, I'm going to be asking you a
18 series of questions. If at any time you don't understand any
19 question I pose to you, you'll let me know, won't you?

02:51PM 20 THE DEFENDANT: Yes, sir.

21 THE COURT: If you have any questions about
22 anything, please ask your question, and I'll do my best to
23 answer it. All right?

24 THE DEFENDANT: All right.

02:51PM 25 THE COURT: And then, finally, let's not rush

1 through this proceeding. If at any time you want to talk to
2 Mr. Swarth about anything that comes up, just give me the
3 heads-up or have him do so, and I'll give you as much time as
4 you need to talk to him. All right?

02:51PM 5 THE DEFENDANT: Thank you.

6 THE COURT: Now, I have to place you under oath.
7 Would you please raise your right hand.

8 **(The defendant was sworn.)**

9 THE COURT: Sir, you are now under oath, which means
02:51PM 10 you have an obligation to answer all my questions truthfully.
11 To the extent you don't, you subject yourself to penalty --
12 prosecution for perjury.

13 Do you understand?

14 THE DEFENDANT: Yes.

02:51PM 15 THE COURT: Could you state your true, full name for
16 the record.

17 THE DEFENDANT: Robert Edward Cook de Boman III.

18 THE COURT: And, Mr. Boman, how old are you?

19 THE DEFENDANT: 28.

02:52PM 20 THE COURT: When were you born?

21 THE DEFENDANT: June 21st, 1993.

22 THE COURT: And how much education do you have?

23 THE DEFENDANT: 12th grade.

24 THE COURT: You graduated from high school?

02:52PM 25 THE DEFENDANT: I didn't graduate. It was about

1 mid-12th grade.

2 THE COURT: Okay. One of my jobs at this hearing is
3 just to make sure that you understand the charges against you
4 in the First Superseding Indictment and that you understand the
02:52PM 5 terms and conditions of the plea agreement and the consequences
6 of entering a guilty plea. So I have to ask you a few more
7 questions that are a little more personal in nature, but I'm
8 not going to get into any great detail.

9 Have you ever suffered from any type of mental
02:52PM 10 illness in the past?

11 THE DEFENDANT: No, Your Honor.

12 THE COURT: Have you ever suffered from any type of
13 drug or alcohol addiction?

14 THE DEFENDANT: Yes.

02:52PM 15 THE COURT: Could you tell me what and when
16 approximately.

17 THE DEFENDANT: From when I was about 15, I started
18 using methamphetamine. Then I went to prison for a couple
19 years when I was 18 to 21. And from 21 on is when my addiction
02:53PM 20 was heavy.

21 THE COURT: Okay. And you've been clean and sober
22 for a while?

23 THE DEFENDANT: Yeah.

24 THE COURT: Good, because there's -- prolonged use
02:53PM 25 of methamphetamine does impact a person's ability to process

1 information and understand what they're doing. As you stand
2 here this afternoon, do you feel you've had any problems
3 understanding the charges and the terms and conditions of the
4 plea agreement?

02:53PM 5 THE DEFENDANT: No, Your Honor.

6 THE COURT: Okay. Have you taken any drug or
7 alcohol within the last 72 hours?

8 THE DEFENDANT: No, Your Honor.

9 THE COURT: And, Mr. Swarth, in your dealings with
02:53PM 10 Mr. Bowman, do you have any concern about whether he is
11 competent to proceed this morning?

12 MR. SWARTH: No.

13 THE COURT: All right. Based on Mr. Boman's answers
14 to my questions as well as the representation of his counsel,
02:53PM 15 I'll -- I find that he has full possession of his faculties and
16 is mentally competent to proceed.

17 Mr. Boman, I need to talk to you about the charges
18 in the First Superseding Indictment, this Count One. My
19 understanding is you just visited the magistrate judge, and you
02:54PM 20 were arraigned on these charges; right?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: So had you seen a copy of these charges
23 before you went before the magistrate judge?

24 THE DEFENDANT: Yes.

02:54PM 25 THE COURT: Have you had an opportunity to discuss

1 them with Mr. Swarth?

2 THE DEFENDANT: I have.

3 THE COURT: All right. Ms. Jhai, so we're all on
4 the same page, will you tell us what the offense is and the
02:54PM 5 elements of it, please.

6 MS. JHAI: Yes, Your Honor.

7 For defendant to be guilty of the crime charged in
8 the First Superseding Indictment, that is, conspiracy to commit
9 the crime of rioting in violation of 18 U.S.C., 371, the
02:54PM 10 following must be true:

11 1. Between on or about March 2017 and October 2nd,
12 2018, there was an agreement between two or more persons to
13 commit at least one crime as charged in the Indictment;

14 2. Defendant became a member of the conspiracy
02:54PM 15 knowing of at least one of its objects and intending to help
16 accomplish it; and,

17 3. One of the members of the conspiracy performed
18 at least one overt act for the purpose of carrying out the
19 conspiracy.

02:55PM 20 The elements of the crime of rioting in violation of
21 18 U.S.C., 2101, which is the object of the conspiracy charged
22 in Count One of the Superseding Indictment, are:

23 1. Defendant traveled in interstate or foreign
24 commerce or used any facility of any interstate or foreign

02:55PM 25 commerce, including, but not limited to, the mail, telegraph,

1 telephone, radio, or television;

2 2. Defendant did so with intent to incite a riot,
3 to participate in or carry on a riot, or to commit an act of
4 violence in furtherance of a riot, or to aid and abet any
02:55PM 5 person in inciting or participating in or carrying on a riot or
6 committing any act or violence in furtherance of a riot; and,

7 3. During the course of such travel or use or
8 thereafter, defend performed or attempted to perform an overt
9 act for any purpose specified above.

02:56PM 10 THE COURT: Very well. Mr. Boman, any questions for
11 me about these charges, sir?

12 THE DEFENDANT: No, Your Honor.

13 THE COURT: You feel you have a good understanding
14 of them?

02:56PM 15 THE DEFENDANT: Yes.

16 THE COURT: All right. Why don't we talk about the
17 plea agreement. I have a copy of it before me. Mr. Swarth
18 will get a copy of it before you.

19 First question I want to ask you about is a
02:56PM 20 signature that purports to be yours on page 18, looks like
21 line 10.

22 Do you see that?

23 THE DEFENDANT: I do, Your Honor.

24 THE COURT: Is that your signature, Mr. Boman?

02:56PM 25 THE DEFENDANT: That, it is.

1 THE COURT: Did you sign it on February 20th, 2023?

2 THE DEFENDANT: That, I did, yes.

3 THE COURT: Then, if you go down the page, there is
4 a very important certification orally -- signed by you on page
02:56PM 5 19, line 5. Is that also your signature on page 19, line 5?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Did you sign the certification on
8 February 20th, 2023?

9 THE DEFENDANT: Yes, Your Honor.

02:56PM 10 THE COURT: Mr. Boman, I'm going to go over these
11 representations in the certification because all of them are
12 quite important, and I need you to confirm that they're
13 accurate. And, if they're not, you can tell me which ones are
14 not.

02:57PM 15 But the certification represents that you've read
16 the plea agreement in its entirety, and you've had enough time
17 to review and consider the plea agreement, and you've carefully
18 and thoroughly discussed every part of it with your lawyer.

19 Are those representations true?

02:57PM 20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: And then it represent that you
22 understand the terms of the plea agreement; you voluntarily
23 agree to those terms; you discussed the evidence with your
24 attorney; he's advised you of your rights, possible pretrial
02:57PM 25 motions that might be filed, possible defenses that might be

1 asserted, either prior to or at trial; of the sentencing
2 factors set forth in 18 U.S.C., Section 3553(a); of relevant
3 Sentencing Guideline provisions and of the consequences of
4 entering into the plea agreement.

02:57PM 5 Are those representations true, Mr. Boman?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: It then goes on to represent that no
8 promises, inducements, or representations of any kind have been
9 made to you other than those contained in the plea agreement;
02:58PM 10 no one has threatened or forced you in any way to enter into
11 the plea agreement; you're satisfied with the representation
12 your lawyer has provided to you in this case, and you want to
13 plead guilty because you are guilty of the charge and wish to
14 take advantage of the promises set forth in the plea agreement
02:58PM 15 and not for any other reason.

16 Are all those representations true?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: Okay. Now, anything you and the
19 Government have agreed to, Mr. Boman, I will seriously
02:58PM 20 consider, but I'm not bound by any agreement or representation
21 that you and the Government might make to me. So, if you go
22 forward and enter a guilty plea, and then I make a decision
23 that doesn't follow any recommendation you and the Government
24 make, it's going to be pretty difficult, if not impossible, for
02:58PM 25 you to withdraw any guilty plea that you might enter this

1 afternoon.

2 Do you understand?

3 THE DEFENDANT: I do, Your Honor.

4 THE COURT: Also, I noticed, in the plea agreement,

02:59PM 5 you're going to be giving up very important rights to go to the

6 Court above me called the Ninth Circuit, which I'm sure you're

7 aware of by now. And, in your plea agreement, you're basically

8 saying, "Hey, I'm not going to challenge any conviction that

9 would result from a guilty plea, nor am I going to challenge

02:59PM 10 any sentence" I would impose in this case as long as it imposed

11 a term of imprisonment within or below a guideline range

12 corresponding to an offense level of 12 and the correct

13 criminal history category.

14 Do you understand this, sir?

02:59PM 15 THE DEFENDANT: I do, Your Honor.

16 THE COURT: Okay. There are certain consequences of

17 entering a guilty plea. I want to make sure you're aware of

18 them or you don't have any questions for me. But by entering a

19 guilty plea to this offense, you're going to be giving up very

03:00PM 20 important civil rights, like the right to vote, the right to

21 hold public office, the right to sit on a jury, and the right

22 to carry a firearm.

23 Do you understand?

24 THE DEFENDANT: I do, Your Honor.

03:00PM 25 THE COURT: Out of an abundance of caution -- I

1 don't know if you're a U.S. naturalized citizen. But, if
2 you're not, by having a conviction of this on your record, you
3 would be subjecting yourself to deportation, denial of
4 citizenship and permanent residency status.

03:00PM 5 Do you understand this?

6 THE DEFENDANT: I do, Your Honor.

7 THE COURT: And I asked you this already, Mr. Boman,
8 in connection with the certification. I just want to confirm
9 it. Other than what's been set forth in the plea agreement,
03:00PM 10 there's been no other promises, handshake deals that the
11 Government's made to you; correct?

12 THE DEFENDANT: No, Your Honor.

13 THE COURT: Mr. Swarth, I just want to confirm with
14 you that the plea agreement reflects the entire agreement that
03:00PM 15 was reached in this case.

16 MR. SWARTH: It does.

17 THE COURT: And you discussed it with Mr. Boman?

18 MR. SWARTH: Yes.

19 THE COURT: You feel it's in his best interest to
03:01PM 20 enter into a guilty plea pursuant to it?

21 MR. SWARTH: Yes.

22 THE COURT: Ms. Jhai, to the best of your knowledge,
23 everything that's been promised Mr. Boman is set forth in the
24 plea agreement?

03:01PM 25 MS. JHAI: That's correct, Your Honor.

1 THE COURT: Okay. I now have to make sure I advise
2 Mr. Bowman of the statutory maximum penalties and punishments
3 that apply to this offense. I don't believe there's any
4 mandatory minimum.

03:01PM 5 Ms. Jhai, would you be good enough to advise us what
6 the statutory maximum penalties and punishments are and confirm
7 there's no mandatory minimum.

8 MS. JHAI: Yes, I will, Your Honor. And since the
9 Court went over the appellate waivers, I'll just note that
03:01PM 10 there is also a waiver of collateral attack on page 13 that
11 Mr. Boman agreed to.

12 The statutory maximum sentence that the Court can
13 impose for a violation of 18 U.S.C., Section 371, is five
14 years' imprisonment; a three-year period of supervised release;
03:02PM 15 a fine of \$250,000 or twice the gross gain or gross loss
16 resulting from the offense, whichever is greatest; and a
17 mandatory special assessment of \$100. And there is no
18 mandatory minimum sentence.

19 THE COURT: Is there any issue of restitution?

03:02PM 20 MS. JHAI: Not known to the Government at this time.
21 I didn't -- it's not included in the plea agreement. I'm not
22 aware of restitution.

23 THE COURT: Okay. Mr. Boman, one of the duties I
24 have at this hearing is to advise you, worst-case scenario,
03:02PM 25 what could happen to you, the statutory maximum penalties and

1 punishments. The law wants me to tell you that because I can't
2 tell you what your sentence is going to be before you enter a
3 guilty plea.

4 So the law says, "Okay, you can't tell Mr. Boman
03:02PM 5 what his sentence is going to be, but at least let him know
6 what's the worst-case scenario that could happen to him."
7 That's important information -- I think you need to know it --
8 but I don't want you under the impression I'm going to impose
9 the statutory maximum in your case.

03:03PM 10 Do you understand?

11 THE DEFENDANT: I do, Your Honor.

12 THE COURT: Do you have any questions for me about
13 the statutory maximum penalties and punishments?

14 THE DEFENDANT: I don't, Your Honor.

03:03PM 15 THE COURT: We also no longer have a program of
16 parole in our federal system. If you're sentenced to time in
17 custody for this offense, you're not going to be released early
18 on any program of parole.

19 Do you understand that?

03:03PM 20 THE DEFENDANT: I do, Your Honor.

21 THE COURT: Also, once you get out of custody, you'd
22 be subject to supervised release -- or if it was probation,
23 similar concept -- to certain terms, conditions, and
24 restrictions that you must comply with, such as don't violate
03:03PM 25 any of our criminal laws. And if you violate any term,

1 condition, or restriction of your supervised release or
2 probation, the consequences to you are severe. You'd have to
3 spend additional time in custody for any such violation.

4 Do you understand?

03:03PM 5 THE DEFENDANT: I do, Your Honor.

6 THE COURT: I'm not familiar with your personal
7 history, Mr. Boman, but if you are on supervised release,
8 probation, or parole on some earlier case, by entering a guilty
9 plea this afternoon, you could be violating the terms,

03:04PM 10 conditions, and restrictions of that earlier supervised
11 release, probation, or parole.

12 Do you understand, sir?

13 THE DEFENDANT: I do.

14 THE COURT: Let me talk to you about sentencing, how
03:04PM 15 it's going to work. And if you have any questions, please ask
16 me because I got to believe this is important to you.

17 If you go forward and enter a guilty plea this
18 afternoon, we'll set a date for sentencing, and I'll have the
19 Probation Department prepare a Presentence Investigation
03:04PM 20 Report. They're going to tell me a little bit more about you,
21 your life, and what you did here. They're going to calculate
22 the Sentencing Guideline range, which we talked about in
23 connection with your certification. They'll determine what
24 your offense level is; what are the offense characteristics;
03:04PM 25 what adjustments need to be made, if there's any departures

1 that need to be made or applied.

2 Then the probation officer will determine what
3 criminal history category you fall into based on -- if you have
4 any prior convictions that are not too old, they're assessed
03:05PM 5 certain points. And then, depending on the number of total
6 points that are assessed, you're placed into criminal history
7 categories; I being the least severe, VI is the most severe.

8 So the probation officer will calculate the offense
9 level, calculate the criminal history category, then go to the
03:05PM 10 sentencing table and determine what the Sentencing Guideline
11 range is for your case. Where those two components intersect,
12 that's the starting point for the sentencing analysis.

13 The probation officer then will apply to your case
14 those very important objectives and factors of sentencing under
03:05PM 15 that federal sentencing statute we also talked about in
16 connection with your certification, 18 U.S.C., Section 3553.
17 Under that statute, Mr. Bowman, I have to determine the
18 guideline range; then I have to look at the nature and
19 circumstances of your offense, your unique history and personal
03:06PM 20 characteristics, try to identify anything aggravating or
21 mitigating in that regard for you.

22 And then I need to make sure that any sentence I
23 impose will reflect the seriousness of the offense, promote
24 respect for the law, and provide just punishment; that the
03:06PM 25 sentence will deter you and others from engaging in the

1 criminal conduct; that the sentence will protect the public
2 from any further crimes you might commit; that the sentence
3 will provide you with needed educational or vocational
4 training, medical care, or other correctional treatment; that
03:06PM 5 the sentence will avoid unwarranted sentencing disparities
6 among people who have been similarly convicted and sentenced
7 for this type of offense; and then, if there was any issue of
8 restitution, make sure that restitution is provided.

9 So the probation officer will calculate the
03:07PM 10 guideline range, apply these factors to your case, and then
11 tell me what he or she thinks is the appropriate sentence for
12 you.

13 The next step in the process, then, will be for
14 Mr. Swarth, on your behalf, and Ms. Jhai or someone from the
03:07PM 15 United States Attorney's Office, on the Government's behalf, to
16 submit position papers where they'll tell me what they think is
17 the guideline range. They'll tell me how these 3553 factors
18 apply, and they'll tell me what they think is the appropriate
19 sentence for you.

03:07PM 20 The next step will be to have the sentencing
21 hearing. I'll have reviewed the Presentence Investigation
22 Report prepared by the Probation Office. I'll have read the
23 lawyers' position papers, and then everybody will have an
24 opportunity to speak to me, including you, if there's anything
03:07PM 25 you'd like to say. You don't have to speak, but you have a

1 right to do so.

2 After I've heard from everybody and read everything,
3 then I have that humbling task, Mr. Boman, of determining what
4 your sentence would be. I can't tell you what your sentence is
03:08PM 5 going to be before you enter a guilty plea, but I certainly
6 could answer any questions you have for me about this process
7 and how I go about deciding it.

8 Do you have any questions?

9 THE DEFENDANT: I can't say I do, Your Honor. No.

03:08PM 10 THE COURT: Okay. Well, if something comes up, let
11 me know.

12 Now I want to talk to you about giving up your
13 fundamental constitutional rights to a trial because, if you go
14 forward, you're going to be giving them up. I want to make
03:08PM 15 sure you understand that and it is your intent to give them up.

16 You have a -- you'd have the right to persist in a
17 not-guilty plea to these charges and then have a public and
18 speedy trial on them where I would impanel 12 people in the
19 jury box, like that one to your right, to my left, and then the
03:08PM 20 Government would have the burden of proving you guilty, guilty
21 beyond a reasonable doubt. That is the highest standard of
22 proof we have in our justice system.

23 At the trial, you have the right to an attorney.

24 And if you couldn't afford one, I'd appoint one for you at no
03:09PM 25 cost to you. At the trial, you have the right to confront and

1 cross-examine any witness the Government brings into court to
2 testify against you. You also, sir, have the right to present
3 your own evidence.

4 What I mean by that, if there's somebody out there
03:09PM 5 saw something, did something, know something, there's any
6 document or physical bit of evidence you want to show to the
7 jury, we could issue a subpoena to that person requiring them
8 to come into court for you, tell the jury what they saw, did,
9 or know or show that document or physical bit of evidence to
03:09PM 10 them.

11 At the trial, you also have the right to take the
12 witness stand and tell the jury what you did and why you did
13 it, if you wanted to. I say "if you wanted to," Mr. Bowman,
14 because you also have a constitutional right to remain silent
03:09PM 15 at the trial, not testify. And that cannot be used against you
16 in any way by the Government. Again, it's the Government's
17 burden to prove you guilty, guilty beyond a reasonable doubt.
18 It is not your burden to prove your innocence.

19 And if we had a trial and the jury came back with a
03:10PM 20 guilty verdict against you, you have the right to appeal that
21 verdict and any sentence I would impose as a result of it. But
22 if we go forward this afternoon and you enter a guilty plea,
23 you're going to be giving up all these constitutional rights
24 and then the terms and conditions of your plea agreement are
03:10PM 25 going to kick in and be binding on you.

1 Do you understand this, sir?

2 THE DEFENDANT: I do, Your Honor.

3 THE COURT: Do you give up your constitutional
4 rights to a trial?

03:10PM 5 THE DEFENDANT: I do, Your Honor.

6 THE COURT: All right. And, Counsel, do you join
7 and concur in that waiver?

8 MR. SWARTH: Yes.

9 THE COURT: All right. I'm in a position now to
03:10PM 10 hear a factual basis for a guilty plea.

11 Mr. Boman, I'm going to turn it over to Ms. Jhai.
12 If you could please pay close attention to what she represents
13 because I'm going to follow up and ask you a few questions
14 about it.

03:10PM 15 MS. JHAI: If this case were to proceed to trial,
16 the Government would be prepared to prove, beyond a reasonable
17 doubt, that, between March 2017 and October 2nd, 2018,
18 defendant, his co-conspirators, and others participated in an
19 organization originally known as the DIY Division that was
03:11PM 20 later rebranded as the Rise Above Movement or RAM. RAM was
21 located in the Greater Los Angeles, California, area, in the
22 Central District of California, and represented itself as a
23 combat-ready, militant group of a new nationalist white
24 supremacy and identity movement.

03:11PM 25 Under the aegis of RAM, at all relevant times,

1 defendant and his co-conspirators agreed to attend, and did
2 attend, within the Central District of California and
3 elsewhere, rallies with the intent to participate in and carry
4 on and commit acts of violence in furtherance of a riot with
03:11PM 5 each conspirator aiding and abetting one another in those
6 objectives.

7 Defendant and his co-conspirators performed numerous
8 overt acts in furtherance of their agreement, including the
9 following, as described more fully below:

03:11PM 10 To prepare for violent physical conflict, defendant,
11 his co-conspirators, and other RAM members and associates
12 regularly held hand-to-hand and other combat training sessions.
13 Defendant attended several such training sessions in 2017.

14 On various social media platforms, including
03:12PM 15 Twitter, Facebook, Instagram, GAB, and Discord, defendant and
16 his co-conspirators posted messages and photographs of
17 themselves preparing for or engaging in violence, accompanied
18 by statements such as "When the squad's not out smashing
19 commies," "#rightwingdeathssquad," and "#goodnightleftside."

03:12PM 20 March 25th, 2017, Huntington Beach, California:

21 On March 15, 2017, defendant, Co-Conspirators
22 Number 1 and 2, and other RAM members engaged in combat
23 training in San Clemente, California, to prepare to engage in
24 violence at political events, including an upcoming political
03:12PM 25 rally on March 25th, 2017, in Huntington Beach, California, the

1 Huntington Beach rally.

2 Defendant and his co-conspirators took the following
3 actions with the intent to incite, participate in, and carry on
4 a riot and to commit acts of violence in furtherance of a riot
03:13PM 5 at the Huntington Beach rally.

6 On March 25th, 2017, defendant attended the
7 Huntington Beach rally along with Co-Conspirators Number 1 and
8 2 and other RAM members.

9 At that event, defendant and his co-conspirators
03:13PM 10 pursued protestors and engaged in acts of violence, including
11 assaulting groups of protestors and other persons. Defendant
12 personally punched, shoved, and kicked one protestor in the
13 back, while other RAM members and co-conspirators pursued,
14 tackled, and punched protestors.

03:13PM 15 Following that event, news outlets, including
16 various Neo-Nazi and white supremacist websites, published
17 photographs depicting defendant and his co-conspirators engaged
18 in those assaults.

19 Defendant and his co-conspirators celebrated this
03:13PM 20 news coverage, both in person and through text and social media
21 messages, and used the Internet to post statements,
22 photographs, and videos of the assaults in order to recruit
23 members to engage in violent confrontations at future events.

24 For example, on March 26, 2017, defendant posted on
03:13PM 25 his Facebook account a link to an article on *The Daily Stormer*

1 titled "Trumpenkriegers Physically Remove Antifa Homos in
2 Huntington Beach," along with the comment "We did it, fam."

3 Similarly, on that same date, defendant posted a
4 photograph on his Facebook account showing himself, other
03:14PM 5 co-conspirators, and other RAM members at the Huntington Beach
6 rally, along with the comment "Hail victory and the alt-reich."

7 On February 15, 2018, the RAM Twitter account posted
8 a message showing defendant and several other RAM members at
9 the Huntington Beach rally, with the message "Shortly after
03:14PM 10 this pic Antifa was BTFO" -- meaning "blown the eff out" -- "in
11 Huntington Beach."

12 April 15, 2017: Berkeley, California:

13 On April 15, 2017, a political rally was scheduled
14 to occur in Martin Luther King Civic Center Park in Berkeley,
03:14PM 15 California, the Berkeley rally. Defendant and Co-Conspirators
16 Number 1 and Number 3 took the following actions with the
17 intent to incite, participate in, and carry on a riot and to
18 commit acts of violence in furtherance of a riot at the
19 Berkeley rally.

03:15PM 20 In anticipation of the Berkeley rally, defendant
21 attended a RAM training on Sunday, April 9, 2017, in
22 San Clemente, California, where participants engaged in
23 hand-to-hand fighting and formation fighting training.

24 On the evening of April 14, 2017, defendant,
03:15PM 25 Co-Conspirators Number 1 and Number 3, and other RAM members

1 reserved and rented a van from Airport Van Rental, located at
2 the Los Angeles International Airport, to drive together to
3 Richmond, California, where they checked into an international
4 chain hotel.

03:15PM 5 On April 15, 2017, defendant and Co-Conspirators
6 Numbers 1 and 3 prepared to commit acts of violence at the
7 Berkeley rally by wrapping their hands with athletic tape and
8 wearing coordinating gray shirts, goggles, and black scarves
9 and masks to cover the lower half of their faces.

03:15PM 10 Throughout the day, there were several violent
11 clashes between opposing groups at the rally. In one of the
12 first such instances, defendant, Co-Conspirators 1 and 3, and
13 other RAM members crossed the barrier that police erected to
14 separate the opposing groups and punched and kicked several
03:16PM 15 people. Several minutes later, defendant and Co-Conspirators
16 Numbers 1 and 3 again crossed the barrier and engaged in fights
17 with protestors.

18 Later in the day, defendant, Co-Conspirator
19 Number 3, and other RAM members pursued fleeing protestors away
03:16PM 20 from the park through the streets of downtown Berkeley.
21 Defendant punched at least one fleeing protestor, while another
22 RAM member attacked another protestor, punching him several
23 times and stomping on him once. Another RAM member hurled
24 ladles of hot beans at the fleeing protestors before throwing
03:16PM 25 the pot itself into the crowd, kicking down a fence that was

1 blocking the street, and kicking a fleeing protestor from
2 behind.

3 Thereafter, various Neo-Nazi and white supremacist
4 websites published photographs depicting defendant and his
03:16PM 5 co-conspirators assaulting protestors and other persons at the
6 Berkeley rally. Defendant and his co-conspirators celebrated
7 this news coverage and used the Internet to post photographs
8 and videos of the assaults one or more of them had committed in
9 order to recruit others to engage in violence in furtherance of
03:17PM 10 a riot at future events.

11 For example, on April 16th, 2017, defendant posted a
12 photograph on his Facebook page showing him punching persons at
13 the Berkeley rally along with the caption "Oooooi vey!!!
14 Dagoyiiiiim knooooow." Similarly, on that same date, defendant
03:17PM 15 posted a photograph on his Facebook account containing a
16 Twitter post in which a journalist identified defendant and one
17 of his co-conspirators at the Berkeley rally and accused him of
18 shoving him. Defendant wrote, "You come face to face with the
19 enemy, what do you expect."

03:17PM 20 On April 18, 2017, defendant shared on Facebook a
21 video depicting RAM's co-founder and other RAM members
22 assaulting protestors at the Berkeley rally, titled, "Based
23 Elbow Man & Crew Stomp ANTIFA."

24 On August 10, 2017, defendant posted a photograph on
03:18PM 25 his Facebook page showing himself punching a person at the

1 Berkeley rally.

2 In committing the foregoing actions with the intent
3 to incite, participate in, and carry on riots, and to commit
4 violence in furtherance of a riot, defendant and his
03:18PM 5 co-conspirators traveled in and used facilities of interstate
6 and foreign commerce.

7 THE COURT: All right. Mr. Boman, are the facts
8 that Ms. Jhai just represented to me true, sir?

9 THE DEFENDANT: Yes, Your Honor.

03:18PM 10 THE COURT: Is there any fact she represented that
11 you dispute or need to clarify?

12 THE DEFENDANT: There's certain of them in there
13 that seems not true.

14 THE COURT: All right. Tell me which ones.

03:18PM 15 THE DEFENDANT: Talking about going through the --
16 crossing the barrier. There's a barrier set up by police --
17 Berkeley police and -- to separate either sides, the left side,
18 say, and the right side. And from the left side being --
19 excuse me -- from us being on our side -- right? -- meaning all
03:19PM 20 the gentlemen who I went with, we were holding up a sign that
21 said "Defend America." And then all these people in black,
22 Antifa, come walking up. And we're all -- we're all just
23 talking shit back and forth for this, that, and the other.

24 And from when everybody in black, which was Antifa,
03:19PM 25 came walking up -- there was this Black gentleman, this Black

1 kid, he was about 18 years old, I would say, a little bit
2 younger -- he had a "Defend America" hat on. And from when all
3 these people in black came walking up, we were all on their
4 side. So we backed up, backed up, backed up. And then police
03:19PM 5 came and intervened and told us to back up some more. So we
6 did. But that one kid stayed there.

7 And we were talking to him, and -- excuse me. And
8 from how it just continued and erupted into the riot that it
9 was, they started jumping this kid. So me and my buddy Rundo,
03:20PM 10 we ran in there, and we took him out of there. There's 10, 15
11 people just stomping on him. And then from me going up and
12 wrapping him up -- I was just backing up with him. And my
13 buddy Rundo, he was throwing punches and defending me and this
14 kid. And, from there, it just erupted, and it just kept on
03:20PM 15 going.

16 And then Berkeley police got a stand down order, we
17 heard. And then it was five hours of just a bunch of nonsense
18 of what ensued. And that's all I have to say.

19 THE COURT: I appreciate that clarification context.
03:20PM 20 There's two incidents in the factual basis of the plea
21 agreement, the one Ms. Jhai represented. You've been talking
22 about the Berkeley incident. Your confrontation, your clash,
23 your fighting, was that all with Antifa protestors?

24 THE DEFENDANT: Yes.

03:21PM 25 THE COURT: Was there any person that you had a

1 conflict with that was not a member of Antifa?

2 THE DEFENDANT: I can't say so because, whenever
3 they showed up, they would always come in black, fully, from
4 head to toe, and had black face masks, black clothing. And
03:21PM 5 from -- they were very much an instigator in all this.

6 And we never went there to have a mind to fight or
7 have an altercation, but we went there to protest, in essence.
8 And, from what ensued, we defended ourselves. We never went
9 out of our way to attack people. We never went out of our way
03:21PM 10 to just cause harm. But we went up there to protest.

11 THE COURT: Did you go up there to protect any of
12 the speakers?

13 THE DEFENDANT: That was what our -- what we had
14 intended to do as well. I can't recall the name of the group
03:22PM 15 that we went up there with, but we went as acting security for
16 the speakers that never even happened to speak at the Berkeley
17 rally due to the fact of the riot. And that's what our
18 intentions were.

19 THE COURT: All right. You didn't say anything or
03:22PM 20 make any exception or clarification to the Huntington Beach --
21 that conflict and fighting. Was it only protestors belonging
22 to Antifa?

23 THE DEFENDANT: I would say so, yes, to the best of
24 my knowledge. And the statement where it says I had kicked a
03:22PM 25 protestor in the back, he was pepper-spraying us as we're

1 walking with our signs. He let out a spray of pepper spray and
2 then he tripped, and then I kicked him.

3 THE COURT: All right. Well, Counsel, where do you
4 think we're at?

03:23PM 5 MR. SWARTH: We're in a difficult place. We're in a
6 difficult place, Your Honor.

7 **(Reporter requests clarification**
8 **for the record.)**

9 MR. SWARTH: We're in a difficult place. I am --
03:23PM 10 I've done my best to negotiate facts as I could for my client,
11 but he's always been -- as I'm sure the Court is aware,
12 negotiating with U.S. Government is a very difficult prospect
13 at best. They are the most powerful force ever known, and they
14 swing a very heavy weight.

03:23PM 15 My client has been in custody for almost two years
16 on this matter with a five-year max. So we got to a point
17 where a plea was going to be more efficient for him than going
18 to trial.

19 And that's where we are. And that, unfortunately,
03:24PM 20 was just -- I think just revealed to the Court, my client's
21 statement.

22 MS. JHAI: Your Honor, if I may, this is the first
23 that the Government is hearing about specific disagreements
24 with this factual basis. And I did understand, going into
03:24PM 25 today, that it had been reviewed with his client, and this was

1 something that was agreed to.

2 So I just want to say on the record, this is a
3 surprise to the Government that -- the defendant's comments
4 here today in response to the plea agreement, which he signed
03:24PM 5 and discussed with his client.

6 THE COURT: And I appreciate that.

7 This wasn't originally your case. When did you
8 inherit it?

9 MS. JHAI: Me?

03:24PM 10 THE COURT: Yeah.

11 MS. JHAI: It was sometime in the last year during
12 2022. That's correct.

13 THE COURT: Because this isn't the first time I've
14 heard this. And I vividly recall in discussions at other
03:25PM 15 hearings that this was really the confrontation with Antifa.
16 And I recognized then, and I recognize again today, they're not
17 sympathetic victims. And I don't know if some of these facts
18 are in self-defense, and it's not a crime.

19 But let me ask this question. Why -- I don't
03:25PM 20 remember ever reviewing Mr. Boman's detention order.

21 MR. SWARTH: If I may, Mr. Boman was detained during
22 the entire original pendency of the case until the Court
23 dismissed the matter as unconstitutional. He was, obviously,
24 then released with no bond. It took almost two and a half
03:26PM 25 years for the Courts of Appeal to act, by which time Mr. Boman

1 had kind of lost himself to the streets. He was in and out of
2 local custody, but I could never quite get ahold of him so
3 that, when the case was brought back to this Court, I sat
4 without knowing where Mr. Boman was. I had no voice at that
03:26PM 5 point, and the trial was set almost a year ahead.

6 Shortly thereafter, Mr. Boman came in, but I
7 couldn't get him out of custody. Because of his drug
8 addiction, because of family having moved away, I just wasn't
9 able to get -- we had at least one, if not two hearings on
03:27PM 10 attempted release. So --

11 THE COURT: In front of the magistrate judge?

12 MR. SWARTH: Yes. So we got to the point where you
13 do a numbers calculation, if you don't mind, of -- well, we got
14 a five-year max. I've got this calculation of an offense
03:27PM 15 level. I've got this hearing. I have a sense of where
16 sentencing will be. And I had that hard conversation with my
17 client about, you know, do you stand on principal, or do you
18 stand on getting out?

19 And my disagreement with the facts here is largely
03:27PM 20 that a lot of it is just not necessary to the question of
21 whether or not my client did the bad act. That has been my
22 problem asserting -- otherwise, the discussion of the facts
23 would reduce itself "He did." "No, he didn't." "He did."
24 "No, he didn't," and lay it out at trial and it's all going to
03:28PM 25 be testimony.

1 And I know what I know about the case, about my
2 defendant, and I have to factor in all of these things in
3 determining do I recommend to my client that he goes to trial?
4 Or do I recommend to my client that this is an acceptable plea
03:28PM 5 agreement? And in the discussions we had -- believe me, we
6 went back and forth quite a bit.

7 But in the end, we came down to this is -- getting
8 to sentencing will be much faster than going through trial.
9 And that's really where things...

03:28PM 10 THE COURT: You're in a tough spot. You're in a
11 tough spot, and it's a tough case. And I'm not trying to
12 aggravate or compound the situation, but I've never taken a
13 guilty plea from someone who may be innocent.

14 MR. SWARTH: I am very troubled by this case, not
03:29PM 15 just because of whether or not, say, First Amendment question,
16 but I'm troubled because of exactly what the Court says. This
17 is not a case where I've got my client in a bank with a gun
18 getting the money. This is all -- a lot of this case is -- has
19 to do with what you believe in terms of your politics, in terms
03:29PM 20 of your ideology.

21 You're right. It's -- the more I speak, the more I
22 start to become convinced, "Well, wait a second. This is
23 politics. This isn't law." And I don't want to -- I don't
24 want to get things more confused.

03:29PM 25 I understand the Court's point, and I don't have

1 anything more clarifying to say.

2 THE COURT: Well, Ms. Jhai, you've been very
3 patient, and I appreciate that. I am going to want to hear
4 from you, but I want to work with Mr. Swarth for a moment.

03:30PM 5 I remember vividly seeing photographs of Antifa. I
6 vividly recall seeing -- I don't know whether it was the
7 Huntington Beach or the Berkeley rally. And I recall a veteran
8 in a wheelchair being -- water or drinks or beverages were
9 thrown at him. I remember an elderly woman being cut because
03:30PM 10 Antifa was throwing stuff at her. I recall seeing certain
11 speakers, because of their political views, were being shut
12 down by Antifa.

13 So that's the basis for my statements that these
14 aren't some of the most sympathetic victims. And now I'm
03:31PM 15 hearing -- this is a new fact -- that the person that Mr. Boman
16 was kicking back, he was pepper-spraying people.

17 So, you know, I'm -- I feel I'm in a difficult
18 position. I get it. I understand that, you know, what -- he's
19 in custody, and there's a five-year statutory max. There's
03:31PM 20 many mitigating facts and circumstances here on the sentence;
21 so I get it.

22 But at the same time, the process is really
23 important to me. I can't start accepting guilty pleas from
24 people who might be innocent of the charges. I don't want to
03:32PM 25 be in that position.

1 MR. SWARTH: I understand it. And it's -- I do
2 quite a bit of practice in state court. As one might imagine.
3 It's a different ethos there. There is the concept of making
4 deals simply because it's in the defendant's best interest. I
03:32PM 5 understand that that doesn't -- that that truth is much more
6 essential to this process and this Court.

7 THE COURT: And the feds, too, we don't -- we have
8 Rule 11, which precludes me from at all getting involved in any
9 type of plea negotiations too.

03:32PM 10 MR. SWARTH: Understood.

11 THE COURT: As far as -- just so we have all the
12 facts on the table before Ms. Jhai responds, this period of
13 time after I dismiss the charges, waiting on appeal -- what
14 kind of trouble was Mr. Boman getting into?

03:33PM 15 MR. SWARTH: Mr. Boman has a meth habit. He was
16 simply being arrested in the -- by the local authorities -- I
17 believe it's Torrance police -- because he either had a pipe on
18 him or he had -- he was under the influence. It was
19 repetitive. They were all \$500 bail. So they wouldn't hold
03:33PM 20 him long enough for me to get my hands on him, as I was trying
21 to monitor the sheriff's website.

22 THE COURT: Any theft offense or acts of violence?

23 MR. SWARTH: No. I think there was one question --
24 no. There was no theft, no confrontation. It was all status
03:33PM 25 offenses.

1 THE COURT: If he was given bail, where would he
2 stay?

3 MR. SWARTH: This was -- this was the problem. The
4 defendant's father doesn't have a place for him. Defendant's
03:33PM 5 mother moved to Kentucky. I wanted to get him released to
6 Kentucky for a time. He would go there, stay there, hopefully
7 work, have rehab available. We weren't able to get that -- get
8 the judge -- get a magistrate judge to say, "I'll release on
9 that basis."

03:34PM 10 THE COURT: All right. Why don't you two take a
11 seat and be comfortable.

12 Ms. Jhai, you've been very patient. I appreciate
13 that. Many issues have come up, but, if you wouldn't mind,
14 let's deal with the first one.

03:34PM 15 I mean, does the Government feel comfortable, me
16 taking a guilty plea with what Mr. Boman just said?

17 MS. JHAI: Well, the main thing I want to clarify is
18 the Government is 100 percent not in the practice of taking a
19 guilty plea from somebody who is innocent or may be innocent.
03:34PM 20 We're relying on the truthfulness of Mr. Boman's admissions and
21 also on the evidence in the case.

22 So, in this case, when the Government represented
23 what the Government is prepared to -- would be prepared to
24 prove beyond a reasonable doubt, at trial, that was a
03:34PM 25 straightforward representation from the Government based on the

1 evidence in our possession. Mr. Boman's position to agree or
2 not to agree could be made for a variety of reasons.

3 In terms of whether the Court should accept a plea,
4 the Court should accept a plea if he can say that these are
03:35PM 5 truthful admissions. I'm sure that that is either written into
6 the letter of Rule 11 or in the spirit of it. Mr. Boman should
7 admit things that he's prepared to admit and say are true.

8 Now, that kind of negotiation -- so, for example,
9 addressing a factual basis in a plea agreement and saying "I
03:35PM 10 don't think this" or "I don't think that" or "I don't agree
11 with certain things" -- that kind of negotiation could have
12 happened in advance, after we sent this plea agreement to
13 defense counsel, and did not. So there wasn't dialogue of that
14 nature with respect to particular disagreements.

03:35PM 15 The main concern from the Government's perspective,
16 obviously, is the elements. So if Mr. Boman doesn't admit the
17 factual truth of the Government's proof of the elements of the
18 crime, then he should not enter a guilty plea today.

19 Now, if it would be fruitful, I will sit down with
03:36PM 20 Mr. Swarth and Mr. Boman, and we can line-item -- you know, go
21 through the Indictment -- sorry -- the factual basis line by
22 line and talk about any specific areas of disagreement.

23 The main thing that stood out from the Government's
24 perspective in what Mr. Boman just said was denying traveling
03:36PM 25 with the intent to participate in acts of violence. And that

1 intention to engage in acts of violence is a core part of the
2 crime that he's being charged with. And if Mr. Bowman chooses
3 not to plead guilty, the Government would be prepared to prove
4 beyond a reasonable doubt at trial.

03:36PM 5 In particular -- just one moment, if you don't mind.
6 I'm sorry, I didn't hear if you were getting ready to interrupt
7 me.

8 The defendant traveled in interstate commerce with
9 the intent to incite a riot, to participate in or carry on a
03:37PM 10 riot, or commit an act of violence in furtherance of a riot.
11 That's the core fact that the Government is prepared to prove,
12 that this wasn't travel to protest in order to stand quietly by
13 and only act in the need for self-defense.

14 The other thing -- I think that is the main point
03:37PM 15 from the Government's perspective. We're willing to sit down
16 and talk with Mr. Swarth and Mr. Boman regarding a factual
17 basis that he can agree to, but we're also prepared to go to
18 trial and prove the facts beyond a reasonable doubt.

19 With respect to Antifa, from the Government's
03:37PM 20 perspective, the victim -- the victim is not an element of the
21 crime. Whether somebody else had savory or unsavory, you know,
22 views on the other side of the gate, if Mr. Boman traveled in
23 interstate commerce with the intent to commit acts of violence
24 in furtherance of a riot, then that alone is an offense under
03:38PM 25 the statute.

1 With respect to bail and bond, I --

2 THE COURT: Before we go to bail, let's talk a
3 little bit more about the factual basis.

4 MS. JHAI: Sure.

03:38PM 5 THE COURT: I have no question that that's what you
6 intend to prove if we had a trial. But, again, from the prior
7 hearings I had and the arguments, these -- even though it was a
8 legal issue that was before me on the statute, there was a lot
9 of as-applied arguments being made. And what I took from the
03:38PM 10 defendants at the time, and now I'm hearing it again here, is
11 that "We knew there was going to be violence because Antifa was
12 there. We're going to be prepared because we're going to fight
13 them. And Antifa will start this, and," the mentality is,
14 "we'll finish it." If that's true, I don't know if that's a
03:39PM 15 crime.

16 And, again, now I've heard there is this young black
17 man who was about ready to get attacked by Antifa, and so
18 Mr. Bowman is going to his rescue.

19 I don't see how those statements, Ms. Jhai, are
03:39PM 20 consistent with the factual basis. You know, now I kind of had
21 a sense of them before, and now I'm hearing them again. I
22 don't know, candidly, if you can negotiate a factual basis
23 without him recanting and saying, "Well, I didn't mean what I
24 just represented to you under oath, Judge."

03:40PM 25 MS. JHAI: The Government has no interest in

1 proceeding with the plea if Mr. Boman isn't representing
2 himself and his belief about his culpability truthfully to the
3 Court. And if the facts that Mr. Boman represents, just as he
4 just did, are inconsistent with guilt of the offense, then the
03:40PM 5 Court shouldn't accept the plea.

6 Now, the accuracy of those facts, that's for the
7 fact-finder, we'll get to trial. We'll present the evidence on
8 both sides. But at the change of plea hearing, Mr. Boman
9 shouldn't plead guilty unless he agrees that he is guilty and
03:40PM 10 admits truthful facts consistent with that plea.

11 THE COURT: Okay. Now, I know we have the trial set
12 for December. I would -- based on that proffer, Mr. Swarth,
13 that you made, I would consider giving Mr. Boman bail. But
14 what I would want is discussions with the Pretrial Services
03:41PM 15 office to make sure that they can find suitable, acceptable
16 housing and then any other treatment, whether that be a drug
17 treatment program -- I know he's been in custody, but the
18 temptations are extreme.

19 MR. SWARTH: Thank you for that, Your Honor. Yes,
03:41PM 20 we had made quite a bit of effort to try and work with Pretrial
21 Services, see if we can find a program. We got caught in the
22 Catch-22 of he needs Medi-Cal, but he can't get Medi-Cal
23 insurance while he's incarcerated. And they didn't have enough
24 available beds that are under contract with the Government.
03:41PM 25 And so that was another idea that we were trying as a "Okay.

1 Well, at least we can get something accomplished while I
2 prepare the case for trial." So the Court is in -- thinking in
3 the right way.

4 I wish I could remember with real accuracy what
03:42PM 5 are -- why we didn't get the bond that we sought. I think it
6 was back in October -- September or October was the last time
7 we appeared. And we -- the other problem was there are no
8 financial resources --

9 THE COURT: I understand.

03:42PM 10 MR. SWARTH: -- available.

11 THE COURT: I understand.

12 MR. SWARTH: But I know that his mother was very
13 eager and willing to take him in. His father was willing and
14 eager to drive him. Mom now lives in Kentucky, and she was
03:42PM 15 very willing and eager to have him come and stay and start to
16 rehab himself. And if that would -- that would be possible,
17 yeah, this is a case that I would otherwise try.

18 THE COURT: What makes me a little uncomfortable is
19 Kentucky. Is there any way we can set up conditions here?

03:43PM 20 MR. SWARTH: The problem is -- no. The problem is
21 "I had friends, but no." "I had some family, but no." I don't
22 mean to speak too colloquially. But it's just not -- it's one
23 of those very difficult situations where there just aren't the
24 resources available the way we're used to and what we'd like to
03:43PM 25 see.

1 THE COURT: Yeah, I've been running against this.
2 So I don't know if it's possible. Is there any way we could
3 try to get a residential treatment facility, drug treatment
4 facility?

03:43PM 5 MR. SWARTH: Again, I would love to if I could get
6 one of the beds that the Government has contracts for. I
7 cannot achieve it for him -- and made extensive inquiry, but I
8 can't achieve it for him without insurance, and I can't get
9 insurance for him while he's in custody.

03:44PM 10 THE COURT: Excuse my ignorance, but I have -- I've
11 had cases where people didn't have insurance. And if it's an
12 order of the Court, they put him in there and the Government
13 pays; right?

14 MR. SWARTH: Right. But that -- my understanding --
03:44PM 15 and I'm not fully conversant either -- is that Pretrial
16 maintains a certain number of contractual relationships with
17 organizations and facilities that are available for that
18 purpose and that there just -- there's just not enough
19 available.

03:44PM 20 THE COURT: Okay.

21 MS. JHAI: Your Honor, I was present for the last
22 detention hearing and argued that I believe -- and I don't have
23 the record at the tip of my recollection right now, but there
24 is a written order with findings on the docket made by the
03:45PM 25 magistrate judge. And, as I recall, some of the issues were,

1 as Mr. Swarth has said, not having a residence or stable
2 residence, possibly not bail resources. But, also, I believe
3 there was an issue of use of an alternate name that the
4 magistrate judge found significant, and then the drug use and,
03:45PM 5 I believe, an instance of flight.

6 So there were a number of reasons for the Court's
7 detention decision grounded in Mr. Boman's conduct. And so the
8 Government, at this time, still does continue to oppose bail.

9 THE COURT: I understand. And I was going to --
03:45PM 10 wasn't going to put you in a spot where you had to make a
11 decision. I was just putting the issues --

12 MS. JHAI: Yeah.

13 THE COURT: Well, I don't feel comfortable accepting
14 a guilty plea based on what I heard before and then what
03:45PM 15 Mr. Boman said today. I will entertain -- I'm not promising,
16 Mr. Boman, that I would grant it, but I will seriously consider
17 giving him bail.

18 MR. SWARTH: I'll do what I can.

19 THE COURT: I'd have a much better chance of giving
03:46PM 20 him bail if I could get a residential facility out here and put
21 him in.

22 MR. SWARTH: I will -- as soon as I walk out of this
23 courtroom, I will get on the phone with Pretrial Services.
24 I'll also line up whatever family -- I'll go through the whole
03:46PM 25 cycle all over again to see if I can make some sort of

1 arrangement that would keep him local.

2 THE COURT: And that would be my strong preference.
3 If we can't do that, then, back-up plan, put a proposal
4 together for Kentucky. But I'm not enthusiastic about that.

03:46PM 5 MR. SWARTH: Understood.

6 THE COURT: But it is what it is. And then we can
7 have -- give the Government a chance to object in written
8 opposition, and then we can have a hearing, and we can discuss
9 it.

03:47PM 10 So I'm going to leave the ball in your court,
11 Mr. Swarth. And you get with Ms. Jhai on a briefing and
12 hearing schedule. My preference would be sooner rather than
13 later. And I will ask Pretrial to confer with you --

14 Rolls, could you make that an order of the Court,
03:47PM 15 that Pretrial is to confer with Mr. Swarth to see what
16 realistically they can do and the timing of what they could do.

17 THE COURTROOM DEPUTY: Okay. Will do, Your Honor.

18 MR. SWARTH: I would note one other thing,
19 Your Honor. My client did not participate in the most recent
03:47PM 20 stipulation regarding the trial date. My client, as far as --
21 unless I've missed something in the ruling, my client still has
22 a trial date at the end of March.

23 MS. JHAI: A motion for severance hasn't been
24 granted. I believe the order Your Honor issued specifically
03:48PM 25 referred only to Defendant Rundo and Defendant Laube, but

1 there's no motion for severance. And that was the basis of the
2 speedy trial stipulation, was that severance hadn't been
3 granted.

4 But I do agree with Mr. Swarth, and I would ask, if
03:48PM 5 defendant is agreeing today, for the Court to take defendant's
6 waiver on the record so that we could have a consistent trial
7 date and a record of his agreement.

8 THE COURT: Well, am I reading you wrong? Am I
9 hearing that you're going to file a motion for severance? I
03:48PM 10 have the March 28th trial date available. I have a civil case
11 April 4, but this takes priority over any civil case. So I'll
12 kick that.

13 MR. SWARTH: I need a day or two to be able to say
14 whether I will file a motion for severance.

03:48PM 15 THE COURT: Okay.

16 MR. SWARTH: I hadn't thought of going that route,
17 but -- and I'm not sure whether one would be well taken. I
18 don't want to make a motion to the Court that doesn't make
19 sense.

03:49PM 20 THE COURT: Okay. So I don't think I can, then,
21 take a time waiver from you today.

22 MR. SWARTH: We'll work on that issue as well.

23 THE COURT: Yeah, if you could confer about that.
24 Okay.

03:49PM 25 MS. JHAI: I believe so. So, just to be clear,

1 defendant is not -- is not agreeing to waive time today? I
2 believe that's what I'm taking from the record.

3 THE COURT: That's what you're taking. He might.
4 He might, but he's not willing to do that.

03:49PM 5 And you are correct, there's no -- he hasn't been
6 severed. So I can do that, but he's going to contemplate
7 whether -- bringing the motion for severance. And then
8 everybody will be given notice and opportunity to be heard.
9 And I'll review and consider that on an expedited basis
03:50PM 10 because, obviously, the 28th is going to be here before you
11 know it.

12 MR. SWARTH: Your Honor, if I may, I've spoken with
13 my client about it. I don't think we can get to a final
14 position today. But I understand the Court's position. I
03:50PM 15 understand the Government's position. And I can promise the
16 Court that I and the Government and my client will work to
17 solve the speedy trial issue quickly as well as try and give
18 the Court some indication of where we're going to go in the
19 longer term as quickly as possible.

03:50PM 20 THE COURT: All right. Now, before I let you leave,
21 is there anything you need from me to help you contact Pretrial
22 or you have your -- I'm not suggesting that I should. I just
23 want to -- because time is a little bit of the essence here.

24 MR. SWARTH: No, I think I can make what sense I can
03:51PM 25 make of everything that's happened today and communicate it to

1 Pretrial and see if they can work with us.

2 THE COURT: And, Rolls, you'll have in your minute
3 order something that I -- I want Pretrial to confer with
4 Mr. Swarth; right?

03:51PM 5 THE COURTROOM DEPUTY: Will do, Your Honor.

6 THE COURT: So then they'll know that too.

7 Okay. So then I'll just be in a holding pattern.

8 All right. Thank you.

9 THE COURTROOM DEPUTY: All rise.

03:52PM 10 **(Proceedings concluded at 3:52 p.m.)**

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)
STATE OF CALIFORNIA)

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Date: March 9, 2023

 /S/ DEBBIE HINO-SPAAN

*Debbie Hino-Spaan, CSR No. 7953
Federal Official Court Reporter*